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Jyrki Hoisko

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BANNER & WITCOFF, LTD.

1100 13th STREET, N.W.

SUITE 1200

WASHINGTON, DC 20005-4051

EXAMINER

AMINI, JAVID A

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<i>Office Action Summary</i>	Application No.	Applicant(s)	
	10/034,237	HOISKO, JYRKI	
	Examiner	Art Unit	
	JAVID A. AMINI	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2008.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25, 29-48, 51-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Arguments

Applicant's arguments with respect to claims 1-25, 29-48, 51-83 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 84-88 are rejected under 35 U.S.C. 101 because

Claims 84-88 define a [computer program] with descriptive material. While “functional descriptive material” may be claimed as a statutory product (i.e., a “manufacture”) when embodied on a tangible computer readable medium, a [data carrier (page 2 line 5) data communication media, page 2 line 6), wireless interface page 2 line 10 are the same as signal, carrier wave, and Examiner believes the “medium” in the preamble of claim 84 may be similar to what mentioned in previous two lines] embodying that same functional descriptive material is neither a process nor a product (i.e., a tangible “thing”) and therefore does not fall within one of the four statutory classes of § 101. Rather, “signal” is a form of energy, in the absence of any physical structure or tangible material.

Claims 85-88 are rejected with similar reasons as set forth in claim 84, above.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 21-23, 33-35, 42-44, 46-58, 67-69, 76-78, 84-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over DIG35 Specification Metada for digital Images version 1.0, by Digital Imaging Group, Inc, hereinafter DIG, in view of Balabanovic et al. US 6976229 B1, hereinafter Balabanovic.

Claim 1.

DIG teaches a method (e.g., see fig. 2-1) comprising: teaches receiving both image data and additional visual effect information at a user equipment from a data communicating system, DIG teaches in fig. 2-5 generating a visual effect to be presented in association with a version of the image said visual effect being generated based on said visual effect information (e.g., section 2.3.3 second bullet), DIG is silenced specifying (see underlined features) after said receiving and generating displaying at said user equipment a version of said image with the visual effect on a display of the user equipment and (DIG teaches the image without said visual effect on the display, on page 11 section 3.3.2 discloses that the applications read and parse the XML data, also the application may update or delete existing metadata (Examiner's note: visual effect or image information) the image without said visual effect on the display in a predetermined time sequence.

It would have been obvious to one of ordinary skill in the art to recognize that DIG35 image metadata contained at least a visual effect, because DIG provided examples of procedural metadata that include cropping, rotation, or other transformation, see chapter 3 on page 8, fig. 3-

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1. (Examiner's notes: the claimed invention does not specify what type of visual effects, therefore a rotation of an image can be considered as a visual effect, and on the other hand in fig. 3-1 illustrated image data and metadata are separated from each other, because on page 152 section II.3.2.1 discloses by renaming an image file the corresponding metadata link may not be updated).

The special effects filters (see, page 37) of DIG motivates one of ordinary skill in the art to combine the teachings of Balabanovic in col. 5 lines 5-62 by identifying an image with background colors (e.g., blue) that each color corresponding to different story into DIG's teaching in order to separate stories being visually distinguished using different colored backgrounds, see col. 5 lines 23-26.

Claim 2.

DIG teaches the image without said visual effect on the display, on page 11 section 3.3.2 discloses that the applications read and parse the XML data, also the application may update or delete existing metadata (Examiner's note: visual effect or image information).

Thus, it would have been obvious to a person skill in the art to modify the teachings of Balabanovic in col. 5 lines 5-62 into DIG's teachings in order to provide the use of metadata with digital imaging with the advantage of being able to access a wide variety of data regarding the image. When a user accesses the image, however, the user is typically shown all the metadata associated with that image.

Regarding claims 49 and 85 are rejected with similar reasons as set forth in claim 2, above.

Claim 3.

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DIG teaches in fig. 3-3 search using a metadata, that means the visual effect or information data is started before all image data has been received.

Regarding claims 50 and 86 are rejected with similar reasons as set forth in claim 3, above.

Claim 4.

DIG on page 11 discloses periodically the application updates the image's metadata.

Regarding claims 51 and 87 are rejected with similar reasons as set forth in claim 4, above.

Claim 5.

DIG teaches on page 4 section 2.2 that the visual effect is associated with the image.

Regarding claim 52, it is rejected with similar reasons as set forth in claim 5, above.

Claim 6.

DIG teaches on page 4 section 2.2 that the visual effect is associated with the image as the title, date/time of the capture, the capture source, and etc.

Regarding claim 53, it is rejected with similar reasons as set forth in claim 6, above.

Claim 7.

Regarding the rejection of claim 7 is rejected with similar reason as set forth in claim 1 above. Except the visual effect visualizes the age of the image, see fig. 2-1 illustrates the picture of Maui with dated 1999/12/09 that is obvious to an ordinary person skill in the art to recognize it as an age of the image/picture.

Regarding claim 54, it is rejected with similar reasons as set forth in claim 7, above.

Claims 8-10.

DIG teaches on page 9 the visual effect visualizes a location of the source of the image data, section 3.2.3.

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Regarding claims 55-57, they are rejected with similar reasons as set forth in claims 8-10, above.

Claim 11.

DIG teaches the visual effect visualizes relative location between the device and the user equipment, see section B.3.2.5 on page 36 subject distance.

Regarding claim 58, it is rejected with similar reasons as set forth in claim 11, above.

Regarding claims 21-22, and 24 DIG discloses on page 3 the importance of metadata in an image, that may cause to prioritize order of the image.

Regarding claims 67-68, they are rejected with similar reasons as set forth in claims 21-22, above.

Claim 23.

DIG teaches on page 44 fig. C-1.

Regarding claim 69, it is rejected with similar reasons as set forth in claim 23, above.

Claims 33-34, 76-77.

DIG teaches under section 2.1.

Claims 35, 78.

DIG teaches under section 2.4.

Claim 42.

Claim 42 is rejected with similar reasons as set forth in claim 1 above.

Claim 43.

DIG teaches the claimed feature in section 2.4 page 7.

Claim 44.

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The claimed feature which is configured to display said visual effect before all image data has been received, DIG teaches in section 2.4 page 7, different approaches to load the image data before or after the metadata, this option can be customized by a user.

Claims 46-48, 84.

Claims 46, 84 are rejected with similar reasons as set forth in claim 1 above. Regarding claim 47 recited the predetermined sequence is determined by the additional associated information, That DIG in fig. 2-5 illustrates four pages of image metadata in a predetermined time sequence, see specification objection for more detailed information.

Regarding claim 48, Examiner believes that conveying a message can be referred to fig. 2-5 of DIG that the image is an old image because the visual effect of folding top corner of the image.

Claims 12-20, 24-25, 29-32, 36-41, 45, 59-66, 70-75, 79-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over DIG, Balabanovic, and in view of Delorme et al. 6,321,158 B1, hereinafter Delorme.

Claim 12.

DIG teaches on page 46 section C.3.4 location, GPS coordinate, for location of an object see section F.2.15 location type, but DIG and Balabanovic does not illustrate first and second locations as Delorme illustrates in figs. 1A2-3 a navigation system with a wireless device. The function of a navigation system is well known.

Thus, it would have been obvious to a person skill in the art at the time of the invention to modify Delorme's PDA 15 in fig. 1A3, also using the internet 109 in fig. 1A into DIG and Balabanovic, because, Delorme uses the navigation, and a digital camera 13 with a wireless

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system that would be beneficial to a user to incorporate DIG's XML (Extensible Markup Language) to obtain the claimed limitations.

Regarding claim 59, it is rejected with similar reasons as set forth in claim 12, above.

Claim 13.

DIG teaches on page 46 section C.3.4 location, GPS coordinate, and for location of an object see section F.2.15 location type.

Regarding claim 60, it is rejected with similar reasons as set forth in claim 13, above.

Claim 14.

DIG teaches under section B.3.2 camera capture.

Claim 15.

Dig in fig. 2-1 illustrates an image of Maui Hawaii.

Regarding claim 61, it is rejected with similar reasons as set forth in claim 15, above.

Claim 16.

DIG under section C.3.4 location teaches address, GPS coordinate, DIG does not explicitly specify displaying a map but it would have been obvious to an ordinary person in the art to recognize that the GPS coordinate can be considered as a map.

Regarding claim 62, it is rejected with similar reasons as set forth in claim 16, above.

Claim 17.

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DIG teaches on page 92 the GPS reference points as North/South, East/West, see page 94 section F.2.16 under “Yaw”.

Regarding claim 63, it is rejected with similar reasons as set forth in claim 17, above.

Claim 18.

DIG teaches on page 36 under subject distance.

Regarding claim 64, it is rejected with similar reasons as set forth in claim 18, above.

Claim 19.

Recited the size of the image is changed at a speed that visualizes the distance between the location and the user equipment. Examiner’s interpretation: the automatic zooming that Delorme teaches in the abstract teaches the claimed feature, because an ordinary person in the art would be able to change the size of the image by altering the zooming in/out.

Regarding claim 65, it is rejected with similar reasons as set forth in claim 19, above.

Claim 20

DIG does not explicitly specify moving a version of the image on the display; however, it would have been obvious to an ordinary person in the art to recognize that DIG covers the claimed feature under B.3.4.2 Film.

Regarding claim 66, it is rejected with similar reasons as set forth in claim 20, above.

Claims 24-25.

Delorme teaches moving arrow 32 in fig. 1A2 that can be considered as a visual effect of the origin of the image, DIG teaches under II.2.2.4. on page 152. DIG teaches under section 2.1.

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Regarding claims 70-71, they are rejected with similar reasons as set forth in claims 24-25, above.

Claim 29.

DIG teaches in section 2.2. Delorme in col. 28 lines 11-13 teaches colored symbols.

Regarding claim 72, it is rejected with similar reasons as set forth in claim 29, above.

Claim 30.

DIG teaches on page 36 using color temperature may visualize a predefined condition.

Regarding claim 73, it is rejected with similar reasons as set forth in claim 30, above.

Claims 31-32, the following limitations are obvious because any computer equipped with a graphical controller that manage the colors on a display, the claims recited altering a color index table of the image, in light of the specification discloses on page 10 lines 9-10 using an appropriate hardware or software that is taught by Delorme in col. 12 lines 20-30.

Regarding claims 74-75, they are rejected with similar reasons as set forth in claims 31-32, above.

Regarding claim 73, it is rejected with similar reasons as set forth in claim 30, above.

Claims 36-37.

The presentation of the visual effect comprises provision of a shaking or vibrating version of the image, Dig does not explicitly specify animating the visual effect, however, Delorme at col. 32 lines 5-25 teaches customized plan with an animation. Examiner's note: animating version of an image may be considered as a distorted version of the image.

Regarding claims 79-80, they are rejected with similar reasons as set forth in claims 36-37, above.

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Claim 38.

The claim recited one differently sized version of the image, and specification does not specify what the specified size of the image is, however, Delorme in fig. 8D steps 874 and 878 teaches effectively increment or decrement the POI pointer.

Regarding claim 81, it is rejected with similar reasons as set forth in claim 38, above.

Claims 39-40, 82-83.

Delorme clearly teaches the claim features in figs. 1.

Claim 41.

Claim 41 is rejected with similar reasons as set forth in claim 1 above, except the claim limitation in line 2, “a mobile station”, that is taught by Delorme in figs. 1.

Thus, it would have been obvious to a person skill in the art at the time of the invention to modify Delorme’s PDA 15 in fig. 1A3, also using the internet 109 in fig. 1A into DIG and Balabanovic, because, Delorme uses the navigation, and a digital camera 13 with a wireless system that would be beneficial to a user to incorporate DIG’s XML (Extensible Markup Language) to obtain the claimed limitations.

Claim 45.

Claim 45 is rejected with similar reasons as set forth in claim 1 above, except the claim limitation in lines 4-6 that recited “ a camera configured to capture an image ..” Delorme teaches this limitation in figs. 1.

Thus, it would have been obvious to a person skill in the art at the time of the invention to modify Delorme’s PDA 15 in fig. 1A3, also using the internet 109 in fig. 1A into DIG and Balabanovic, because, Delorme uses the navigation, and a digital camera 13 with a wireless

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system that would be beneficial to a user to incorporate DIG's XML (Extensible Markup Language) to obtain the claimed limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAVID A. AMINI whose telephone number is (571)272-7654. The examiner can normally be reached on 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on 571-272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Javid A Amini
Primary Examiner
Art Unit 2628

/Javid A Amini/
Primary Examiner, Art Unit 2628